

ENTERED

March 31, 2025

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

EAZ CHAY JR.,

Plaintiff,

V.

**JOSE A. MONTIEL, EDGAR
HERNANDEZ, CITY OF PHARR
POLICE DEPARTMENT, CITY OF
PHARR, HIDALGO COUNTY, TEXAS,
UTB/TSC, and WELLS FARGO BANK,**

Defendants.

တတိယ

Civil Action No. 7:23-CV-00206

ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

Pending before the Court is the March 11, 2025, Memorandum and Recommendation (“M&R”) prepared by Magistrate Judge Nadia S. Medrano. (Dkt. No. 93). Judge Medrano made findings and conclusions and recommended (1) that Defendants Montiel and Hernandez’s Motion to Dismiss, (Dkt. No. 29), be **GRANTED in part** and **DENIED in part**, (Dkt. No. 93 at 30); and (2) that Defendant City of Pharr’s Motion to Dismiss, (Dkt. No. 31), be **GRANTED**, (Dkt. No. 93 at 30). The upshot is that Plaintiff’s excessive-force claims against Montiel and Hernandez in their individual capacities should be allowed to proceed but all remaining claims should be dismissed. (Dkt. No. 93 at 30). Judge Medrano also recommended that the Court not grant Plaintiff further leave to amend his claims. (*Id.* at 29–30).

The Parties were provided proper notice and the opportunity to object to the M&R.

See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). On March 25, 2025, Plaintiff filed 85

objections to the M&R. (Dkt. No. 95). Plaintiff's most recent objections, like his past objections, are hard to follow and ultimately unpersuasive. (*See* Dkt. Nos. 91, 94) (noting the same about Plaintiff's past objections).

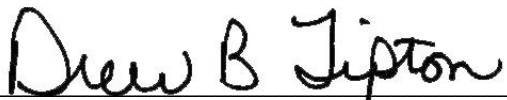
In accordance with 28 U.S.C. § 636(b)(1)(C), the Court is required to "make a de novo determination of those portions of the [magistrate judge's] report or specified proposed findings or recommendations to which objection [has been] made." After conducting this de novo review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.*; *see also* Fed. R. Civ. P. 72(b)(3).

The Court has considered de novo the objected-to portions of the M&R and reviewed the remaining proposed findings, conclusions, and recommendations for plain error. The Court agrees with the objected-to portions of the M&R and finds no error in the remaining portions. It is therefore ordered that:

- (1) Judge Medrano's M&R, (Dkt. No. 93), is **ACCEPTED** and **ADOPTED** in its entirety as the holding of the Court;
- (2) Defendants Montiel and Hernandez's Motion to Dismiss, (Dkt. No. 29), is **GRANTED in part** and **DENIED in part**;
- (3) Defendant City of Pharr's Motion to Dismiss, (Dkt. No. 31), is **GRANTED**; and
- (4) Defendant City of Pharr is **DISMISSED** from this action.

It is SO ORDERED.

Signed on March 31, 2025.


DREW B. TIPTON
UNITED STATES DISTRICT JUDGE